

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **December 10, 2002**

AGENDA ITEM NO.: **14**

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: Zoning Ordinance Revisions, Section 35.1-17, Amendments, Section 35.1-19, Public Hearings, Section 35.1-37, Central Business District And Section 35.1-38.1 Riverfront Business District, Concerning Property Owner Notification Requirements And Administrative Clarifications.

RECOMMENDATION: Approval of the requested Zoning Ordinance Revisions.

SUMMARY: Section 15.2-2204 of the Virginia State Code allows property owner notifications to be sent by first class mail, if the notifications are sent by the governing providing that a representative of the governing body makes affidavit that the notifications have been made and files the affidavit with the papers of the case. Sending property owner notifications by first class mail will reduce the amount of staff time required to prepare notifications and reduce costs associated with the mailings.

Administrative clarifications to the Zoning Ordinance pertaining to changing the "Board of Historic & Architectural Review" to "Historic Preservation Commission" and changing contact information on Board of Zoning Appeals notification signs.

PRIOR ACTION(S):

November 13, 2002: Planning Division recommended approval of the Zoning Ordinance Revisions
Planning Commission recommended approval (7-0) of the Zoning Ordinance Revisions

FISCAL IMPACT: N/A

CONTACT(S):

Rachel Flynn / 847-1508, ext. 253
Tom Martin / 847-1508, ext. 226

ATTACHMENT(S):

- ? Resolution
- ? PC Report
- ? PC minutes

REVIEWED BY: lkp

ORDINANCE

AN ORDINANCE TO AMEND AND REENACT THE CODE OF THE CITY OF LYNCHBURG, 1981, BY AMENDING SECTION 35.1-17 RELATING TO AMENDMENTS, SECTION 35.1-19 RELATING TO PUBLIC HEARINGS, 35.1-37 RELATING TO THE CENTRAL BUSINESS DISTRICT AND SECTION 35.1-38.1 RELATING TO THE RIVERFRONT BUSINESS DISTRICT.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

1. That Section 35.1-17 of the Code of the City of Lynchburg be, and the same is hereby amended and reenacted as follows:

Sec. 35.1-17. Amendments.

(a) Who may initiate. Any amendment to the text or official zoning map of this ordinance may be initiated by:

(1) The city council.

(2) The planning commission; provided, however, that any resolution or motion by the planning commission or city council proposing the rezoning shall state the public necessity, convenience, general welfare or good zoning practice constituting the public purpose of such rezoning.

(3) Any person directly affected by such an amendment. However, any such applicant not the owner of any property whose zoning district would be changed shall include in his application written permission by each owner of each property so affected.

(b) Procedure for amendments to the zoning ordinance and the official zoning map.

(1) A petition (letter) requesting a zoning amendment must be submitted to the division of planning by the petitioner a minimum of thirty (30) days prior to the public hearing date for the planning commission. The petition shall include the following documentation prior to scheduling the public hearing:

a. Name and address of petitioner;

b. Legal description of property to be rezoned;

c. Metes and bounds description of property to be rezoned;

d. General description of property to be rezoned (location);

e. Existing and proposed zoning classifications;

f. Purpose of proposed change in zone classification, including intentions of petitioner for use of the property.

(2) The petition shall be accompanied by the following:

a. A check payable to the City of Lynchburg in the amount set forth in the fee schedule adopted by city council.

b. A map showing the subject property (preferably a copy of the valuation map available from the department of public works, City Hall).

c. A schematic site plan including the documentation specified in Section 35.1-14 and indicating proposed use of the property (except for a PUD or CCD request, which requires the initial submittal of a preliminary site plan, with final approval of the conditional use permit contingent upon approval of a final site plan).

When a proposed amendment of the zoning ordinance involves a change in the zoning classification of twenty-five (25) or less parcels of land, then, in addition to the advertising as above required, the planning division shall notify all property owners, their agent or the occupant, of all property within two hundred (200) feet of the proposed zone change not less than ten (10) days prior to the public hearing before the planning commission. Notification shall be by ~~certified~~ first class mail to the last known address of such owner as shown on the current real estate tax assessment book, and the cost of this notification shall be taxed to the applicant, unless waived by the city, at ~~a the~~ the standard postal rate as determined by the ~~city council's current fee schedule~~ United States Postal Service for each written notice . The city planner or his designee shall make written affidavit that the required notifications have been mailed and shall file such affidavit with the papers of the case.

If the hearing is continued, notice shall be re-mailed. Cost of any notice required under this section shall be taxed to the applicant.

At the time an application is filed with the division of planning, a sign shall be posted on the property by the applicant notifying interested persons that a rezoning application has been filed; said sign shall be located within one (1) foot of the right-of-way of a public street or road, upon which said business or proposed use fronts. The sign shall be placed on the property at five hundred (500) foot intervals. The city planner may reduce the required number of signs or approve the relocation of signs in those cases for which the petitioner can present sufficient justification to warrant a deviation, provided the spirit and intent of the notice requirements are observed. Grounds for deviation of the requirements may include such items as a parcel of unusual size or shape, a peculiar location, severe topography, or other extraordinary situation or condition of the property that would make the strict application of these requirements unnecessary or impractical. The justification shall document that a reduction in the number or the relocation of signs would not reduce the effectiveness of the public notice. If the property in question has a five hundred (500) foot or less frontage, one (1) sign shall suffice. Where property does not front on an existing right-of-way, said sign shall be placed within the right-of-way of the nearest street or road. The sign shall read as follows:

48"	NOTICE TO REZONE
	Name of Applicant or Owner:
	Telephone No.:
	Address of Property:
	Present Zoning:
	Proposed Zoning:
	Proposed Use of Property:
	Additional Information: call Planning Division, Department of Community Planning and Development—847-1508

72"

Said sign shall be of wood or metal, at least forty-eight (48) inches by seventy-two (72) inches in size and the lettering thereon shall be black letters on a white background and shall be at least three (3) inches in height. The applicant shall notify the division of planning in writing that the sign has been erected and where located.

The sign shall contain no additional advertisement or words other than that which is specified herein. Said sign shall remain posted until final action has been taken by the city council. After final action has been taken by the city council, or the petition has been withdrawn, the sign shall be removed within ten (10) calendar days by the petitioner at his expense. If any sign remains posted longer than this ten (10) day period the petitioner shall be deemed in violation of this ordinance and subject to the penalties as set forth in Section 35.1-20 of this ordinance.

The petitioner or his representative shall be present at the planning commission meeting at which the proposed zone change is to be considered. The planning commission's recommendations shall be submitted within thirty (30) days of the hearing to the city council, which shall, after a public hearing under the regulations of Section 35.1-19 of this ordinance, approve or disapprove the proposed amendment. If, in the judgment of council, consideration should be given to changing a greater or lesser area than that proposed in a petition, council, on its own motion, shall refer to the commission, for report and recommendation, a proposal for changing a greater or lesser area than that contained in the petition. It shall be the duty of the city manager, or any official designated by him, to bring to the attention of council such instances where, in his opinion, a greater or lesser area shall be considered for change than that contained in a specific petition, and the planning commission may also recommend to council that a greater or lesser area be changed, or that the zoning be changed in any other respect differently from what was proposed in the petition.

When the council has rejected a petition to amend, supplement or change these regulations, or the boundaries of any district or classification of any property, it may not be required to consider another petition requesting the same change until at least one (1) year has elapsed, except by the favorable vote of three-fourths of all of the members of city council. No land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice as required by Section 35.1-19.

(c) Procedure for comprehensive plan amendments. A proposal for a comprehensive plan amendment can be initiated only by the city council or the planning commission. Such a comprehensive plan amendment shall be submitted first to the planning commission, which shall, after a public hearing under the regulations of Section 35.1-19 of this ordinance, recommend action to the city council. The city council shall hold a public hearing under Section 35.1-19 before taking final action on such amendment; however, the planning commission and the city council hearings may be held jointly.

(d) Affirmative vote. An affirmative vote of at least a majority of all of the members of the city council shall be required to effectuate such change or amendment as regulated by this chapter.

(e) Time of hearing. An application for a zoning amendment shall be submitted at least thirty (30) days before the date of the hearing in order to be considered at the said hearing. Except as specifically authorized by city council, applications for a zoning amendment will be heard by the city council only once a month at the first meeting of the month. Also, except as specifically authorized by the planning commission or city council, zoning applications will be considered to be incomplete and will not be scheduled to be heard by the planning commission or city council until all necessary variances have been obtained from the board of zoning appeals.

2. That Section 35.1-19 of the Code of the City of Lynchburg be, and the same is hereby amended and reenacted as follows:

Sec. 35.1-19. Public hearings.

(a) Where required. A public hearing before the city council, the board of zoning appeals, the ~~board of historic and architectural review~~ historic preservation commission, or the planning commission shall be held as specified in this section before approval of:

- (1) A variance;
- (2) A conditional use permit;
- (3) An amendment to the ordinance, the official zoning map, or the comprehensive plan;
- (4) Establishment or amendment of criteria for determination of landmarks, buildings or structures as being architecturally, culturally or historically noteworthy.

Except as specifically authorized by the planning commission or city council, rezoning and conditional use permit petitions will be considered incomplete and will not be scheduled to be heard by the planning commission or city council until all necessary variances have been obtained from the board of zoning appeals.

(b) Notice. Before any hearing required by this ordinance shall be held, a notice of such hearing shall have been published at least once per week for two (2) successive weeks in some newspaper having general circulation in the City of Lynchburg. The term "two (2) successive weeks" as used in this paragraph shall mean that such notice shall be published at least twice in such newspaper with not less than six (6) days elapsing between the first and second publication. Such notice shall specify the time and place of hearing at which persons affected may appear and present their views not less than six (6) nor more than twenty-one (21) days after the second advertisement shall appear in such newspaper. Such notice shall also contain reference to where copies of the proposed plans or amendments may be examined.

If these regulations specify or permit hearing by the ~~board of historic and architectural review~~ historic preservation commission, planning commission or board of zoning appeals and the city council, both hearings may be held concurrently. If such a joint hearing is held, public notice as specified above need be given only by the city council or whichever would be the last body to hear the matter.

(1) Zoning amendment. When a proposed amendment of the zoning ordinances involves a change in the zoning classification of twenty-five (25) or less parcels of land, then, in addition to the advertising as above required, written notice shall be given by the planning commission not less than ten (10) days before the hearing to the owner or owners, their agent or the occupant of each parcel involved and of all property within two hundred (200) feet of the affected property, including such properties which lie in an adjoining county. Notice sent by ~~registered or certified~~ first class mail to the last known address of such owner as shown on the current real estate tax assessment books shall be deemed adequate compliance with this requirement. Cost of any notice required under this section shall be taxed to the applicant, unless waived by the city, at ~~a the~~ standard postal rate as determined by the city council's current fee schedule United States Postal Service for each written notice. The city planner or his designee shall make written affidavit that the required notifications have been mailed and shall file such affidavit with the papers of the case.

Posting of a sign giving notice of intent to rezone will be required. If the hearing is continued, notice shall be remailed. Cost of any notice required under this section shall be taxed to the applicant.

(2) Conditional use permits requiring city council action. The following shall apply for each conditional use permit petition requiring city council action:

a. Sign. At the time a petition is filed with the division of planning, a sign shall be posted on the property by the applicant notifying interested persons that a conditional use permit application has been filed; said sign shall be located within one (1) foot of the right-of-way of a public street or road upon which said property or proposed use fronts. The sign shall be placed on the property at five hundred (500) foot intervals. The city planner may reduce the required number of signs or approve the relocation of signs in those cases for which the petitioner can present sufficient justification to warrant a deviation, provided the spirit and intent of the notice requirements are observed. Grounds for deviation of the requirements may include such items as a parcel of unusual size or shape, a peculiar location, severe topography, or other extraordinary situation or condition of the property that would make the strict application of these requirements unnecessary or impractical. The justification shall document that a reduction in the number or relocation of signs would not reduce the effectiveness of the public notice. If the property in question has a five hundred (500) foot or less frontage, one (1) sign shall suffice. Where property does not front on an existing right-of-way, the sign shall be placed within the right-of-way of the nearest street or road. The sign shall read as follows:

NOTICE

PETITION FOR A CONDITIONAL USE PERMIT

Name of Applicant or Owner:

Telephone No:

Address of Property:

Present Zoning:

Proposed Use of Property:

Additional Information: Call Planning Division, Department of
Community Planning and Development at 847-1508.

48"

72"

Said sign shall be of wood or metal, at least forty-eight (48) inches by seventy-two (72) inches in size and the lettering thereon shall be black letters on a white background and shall be at least three (3) inches in height. The applicant shall notify the division of planning in writing that the sign has been erected and where located.

The sign shall contain no additional advertisement or words other than that which is specified herein. Said sign shall remain posted until final action has been taken by city council, or the petition has been withdrawn, the sign shall be removed within ten (10) calendar days by the petitioner at his expense. If any sign remains posted longer than this ten (10) day period, the petitioner shall be deemed in violation of this ordinance and subject to the penalties as set forth in Section 35.1-20 of this ordinance.

b. Written notice. A written notice shall be given in addition to the advertising required in paragraph (b) of this section by the planning commission not less than ten (10) days before the hearing to property owners within two hundred (200) feet of the subject property informing them of the public hearing and the purpose of the request. Such notice shall be by ~~registered or certified~~ first class mail to the last known address of such owner as shown on the current real estate tax assessment books. Cost of any notice required under this section shall be taxed to the applicant, unless waived by the city, at a the standard postal rate as determined by the ~~city council's current fee schedule~~ United States Postal Service for each written notice. The city planner or his designee shall make written affidavit that the required notifications have been mailed and shall file such affidavit with the papers of the case. If the hearing is continued, notice shall be remailed. Cost of any notice required under this section shall be taxed to the applicant.

c. Presence required. The petitioner or his representative shall be present at both the planning commission and the city council meetings at which the conditional use permit petition is to be considered.

(3) Conditional use permits and variances requiring action by the board of zoning appeals. The following shall apply for each conditional use permit petition or variance petition requiring board of zoning appeals action:

a. Sign. At the time a petition for a conditional use permit requiring board of zoning appeal action or a variance is filed with the neighborhood services ~~division of inspections~~, but not less than twenty-one (21) days prior to the scheduled meeting of the board of zoning appeals, a sign shall be posted on the property by the applicant notifying interested persons that a conditional use permit or variance application has been filed; said sign shall be located within one (1) foot of the right-of-way of a public street or road upon which said property or proposed use fronts. The sign shall be placed on the property at five hundred (500) foot intervals, or at the discretion of the zoning administrator. If the property has a five hundred (500) foot or less frontage, one (1)

sign shall suffice. Where property does not front on an existing right-of-way, the sign shall be placed within the right-of-way of the nearest street or road. A sign shall not be required for variances for one and two-family dwellings. The sign shall read as follows:

NOTICE

PETITION TO THE BOARD OF ZONING

APPEALS FOR A CONDITIONAL USE PERMIT OR VARIANCE

Name of Applicant or Owner:
Telephone No:
Address of Property:
Present Zoning:
Proposed Use of Property:

Additional Information: Call ~~Inspections~~ Neighborhood Services Division,
Department of Community Planning and Development at 847-4572 1671.

72"

Said sign shall be of wood or metal, at least forty-eight (48) inches by seventy-two (72) inches in size and the lettering thereon shall be black letters on a white background and shall be at least three (3) inches in height. The applicant shall provide the Neighborhood Services Division ~~of inspections~~ two (2) photographs of the sign(s) as located on the subject property. To assure proper notice has been provided, the required photographs must be submitted not less than twenty-one (21) days prior to the scheduled meeting of the board of zoning appeals.

The sign shall contain no additional advertisement or words other than that which is specified herein. Said sign shall remain posted until final action has been taken by the board of zoning appeals, or the petition has been withdrawn, at which time the sign shall be removed within ten (10) calendar days by the petitioner at his expense. If any sign remains posted longer than this ten (10) day period, the petitioner shall be deemed in violation of this ordinance and subject to the penalties as set forth in Section 35.1-20 of this ordinance.

b. Written notice. A written notice shall be given, in addition to the advertising required in paragraph (b) of this section, by the board of zoning appeals not less than ten (10) days before the hearing to property owners within two hundred (200) feet of the subject property informing them of the public hearing and the purpose of the request for a conditional use permit. If a conditional use permit and a variance are on the same petition, the notification process shall be the same as that listed for a conditional use permit. Such notice shall be by ~~registered or certified~~ first class mail to the last known address of such owner or agent as shown on the current real estate tax assessment books. The cost of any notice required under this section shall be taxed to the applicant, unless waived by the city, at the standard postal rate as determined by the ~~city council's current fee schedule~~ United States Postal Service for each written notice. The board of zoning appeals or its designee shall make written affidavit that the required notifications have been mailed and shall file such affidavit with the papers of the case. If the hearing is continued, notice shall be remailed at the expense of the applicant.

c. Presence required. The petitioner or his representative shall be present at the board of zoning appeals meeting at which the conditional use permit is to be considered.

(4) Variances. The following shall apply for each variance petition requiring board of zoning appeals action:

a. Written notice. A written notice shall be given, in addition to the advertising required in paragraph (b) of this section, by the board of zoning appeals not less than ten (10) days before the hearing to property owners who are adjacent to the subject property for a variance request informing them of the public hearing and the purpose of the request. If a conditional use permit and a variance are on the same petition, the notification process shall be the same as that listed for a conditional use permit. Such notice shall be by ~~registered mail or certified mail~~ first class mail to the last known address of such owner or agent as shown on the current real estate tax assessment books. The cost of any notice required under this section shall be taxed to the applicant, unless waived by the city, at the standard postal rate as determined by the ~~city council's current fee schedule~~ United States Postal Service for each written notice. The board of zoning appeals or its designee shall make written affidavit that the required notifications have been mailed and shall file such affidavit with the papers of the case. If the hearing is continued, notice shall be remailed at the expense of the applicant.

b. Presence required. The petitioner or his representative shall be present at the board of zoning appeals meeting at which the variance is to be considered.

(c) Rules of procedure in hearings. Any person affected by the proposed action which is the subject of the hearing may make a statement concerning it. The city council, the board of zoning appeals, the ~~board of historic and architectural review~~ historic preservation commission and the planning commission shall make other rules as they deem appropriate for the conduct of public hearings. Such rules may cover such subjects as rules of order, time limits on statements, previous notice of intention to speak and other matters.

(d) Records. A record shall be kept of all public hearings required by this section.

3. That Section 35.1-37 of the Code of the City of Lynchburg be, and the same is hereby amended and reenacted as follows:

Sec. 35.1-37. Central business district (B-4).

(a) Intent. This district is to provide for a wide range of commercial and other sales and service operations, serving the entire metropolitan area. This district is specifically aimed at the encouragement of limited multi-family residences, business and related activities of relatively high densities and with adequate services in the old central business district of Lynchburg.

(b) Design review. In order to retain the architectural integrity of the riverfront/downtown area, the area included in the boundaries of the B-4 district shall be designated as a historic district advisory area. Such designation requires that any exterior alterations within the area, including demolitions, new construction, and exterior alterations to existing structures, shall be subject to review by the design review board for conformity with the commercial historic district design guidelines: downtown Lynchburg. The review shall be conducted as a public meeting with the opportunity for public comment including written notice to property owners within two hundred (200) feet of the subject property. While the recommendations resulting from the design review stipulated by this section are offered in only an advisory capacity, developers are encouraged to comply with such recommendations.

The cost of such public meeting review shall include a fee for notification by ~~certified~~ first class mail to all required recipients at the standard postal rate ~~of two dollars (\$2.00)~~ as determined by the United States Postal Service for each written notice to be paid by the petitioner. The city planner or his designee shall make written affidavit that the required notifications have been mailed and shall file such affidavit with the papers of the case.

(c) Prohibited uses. Within any business B-4 district, as indicated on the official zoning map, no lot, building or structure shall be used and no building shall be erected which is intended or designed to be used in whole or in part for any industrial or manufacturing purpose. No operations shall be carried on which create conditions of noise, odor, particulates or light detrimental to health, safety or the general welfare of the community.

(d) Uses permitted by right. The following uses shall be permitted by right in the central business district under the regulations of Section 35.1-14 of the zoning ordinance:

(1) Any use hereinbefore permitted by right in R-1, R-2, R-3, R-4 and R-5 districts and business B-1, B-2 and B-3 districts, except the following:

a. Freestanding one- and two-family structures.

b. Drive-in business where persons are served in automobile, such as refreshment stands, restaurants, food stores and the like.

c. Hiring halls and other places of assembly for the registration for or the assignment of employment.

(2) Assembly halls of any size.

(3) Automobile parking garage, repair shop or parking lot, subject to approval by the city council as provided by other ordinances of the city.

(4) Banks and other financial houses, including incidental drive-in service windows.

(5) Churches and other places of worship.

(6) Clubs, lodges and community centers organizations.

(7) Government buildings used exclusively by the city, county, state or federal government for public purposes.

(8) Halls or theaters for music, drama, lectures, or other civic or amateur presentations of the arts.

(9) Hotels and motels.

(10) Job printing.

(11) Newspaper offices and printing.

(12) Office buildings.

(13) Public libraries, public museums and art galleries.

(14) Repair or assembly of jewelry, dental goods, optical goods, millinery, clothing novelties, musical instruments or other items from previously prepared materials such as bone, cloth, cork, fibers, leather, paper, plastics, metals, stones, tobacco, wax, yarns or wood (except for sawmills or planing mills), provided that no conditions are created in which smoke, fumes, noise, odor, light or dust becomes detrimental to the health, safety or the general welfare of the community.

(15) Restaurants.

(16) Schools and colleges of all types that do not exceed a maximum enrollment of one hundred (100) students.

(17) Static transformer stations, telephone exchanges, transmission lines, gas and water mains, conduits for the transmission of electric energy including telephone, telegraph, and noncommercial radio and television poles and towers, and appurtenances thereto, but not including service, storage, or maintenance yards, or offices.

(18) Taxicab office.

(19) Theaters of any size.

(20) Other uses determined by the city council to be of similar character to and compatible with the above uses.

(e) Permitted accessory uses. Uses, except signs, permitted as accessories to principal uses in the B-3 district shall be permitted as accessories in the B-4 district.

(f) Uses permitted by conditional use permit. The following uses shall be permitted in central business districts (B-4) under the regulations of Section 35.1-15 and Article X of the zoning ordinance:

(1) Arcades.

(2) Commercial recreation places such as dancing, bowling, billiards and the like, when located within enclosed building.

(3) Dance halls.

(4) Schools and colleges of all types exceeding a maximum enrollment of one hundred (100) students.

(g) Standards for B-4, central business district. The following dimensional standards shall apply within business districts:

(1) General standards.	<u>B-4</u>
Minimum average lot area per establishment (square feet)	None required
Minimum lot depth (feet)	0
Minimum front yard (feet)	0
Minimum rear yard (feet)	0
Minimum side yard (feet)*	0

(2) *Yards. None required, except that any side yard abutting a residential district shall be a minimum of twice the width required in that district. Such a side yard shall be screened in accordance with Section 35.1-23 of the zoning ordinance.

(3) Height regulations. In any business B-4 district, a building may be erected to any height, provided that the height of that portion of the building in excess of two (2) times the width of the street on which it abuts shall be governed by the following regulations: For each foot such building or portion thereof is set back from any street, lot or required yard line, such building or portion thereof may be erected ten (10) feet in height, provided that no street shall for this purpose be considered to be less than forty (40) feet nor more than sixty (60) feet in width. If a building abuts on two (2) or more streets, that street which permits the greater height shall be used as the basis of measurement.

(4) Area regulations. None required.

(h) Signs. Exterior signs pertaining only to the uses conducted on the premises, but not including any projecting signs, will be permitted, subject to the following conditions:

(1) Wall signs shall face only upon a principal street or an abutting parking lot, or where located on a corner lot, may face upon a side street. The aggregate face area of all signs on any one (1) wall of a building shall not exceed fifty (50) square feet, plus two (2) square feet for each lineal foot of such wall.

(2) One (1) free-standing sign, permanently fixed to the ground, may be erected on each street on which a lot occupied by a permitted use abuts, provided such sign does not extend beyond the lot line. Such sign shall be limited to two (2) faces, each of which shall not exceed one hundred (100) square feet in area. The overall height of any such sign shall not exceed twenty-four (24) feet above the ground.

(3) When a group of buildings are coordinated into a business or shopping area, one (1) free-standing sign, permanently fixed to the ground, designed to identify the area as a whole may be erected on each street on which the area abuts, provided such sign shall not extend beyond the lot line. Such sign shall be limited to two (2) faces, each of which shall not exceed one hundred fifty (150) square feet in area. The overall height of any such sign shall not exceed twenty-four (24) feet above the ground.

(4) Signs composed of separate letters identifying a business establishment may be individually mounted either on the top side of a marquee serving the establishment or on the top of an exterior wall of the building, provided no letter shall exceed twenty-four (24) inches in height.

(5) One (1) two-faced sign shall be permitted on the underside of each marquee, provided there shall be at least an eight (8) foot vertical clearance between the walkway and the lowest point of the sign. The sign may extend the full width of the marquee and shall be located at the center line or at the main entrance of the business establishment. The sign shall be twelve (12) inches high and erected perpendicular to the face of the building.

(6) No sign shall project more than fifteen (15) inches beyond the face of a building, nor shall any sign project above the parapet wall of a building, except signs indicating time and/or temperature may project not more than five (5) feet beyond the face of the building, provided there is no advertisement or firm name used in connection with such signs, and except for signs permitted on a marquee and on top of exterior walls.

(7) Sign illumination. When any sign is lighted, such lights shall be enclosed in the sign, shaded or indirect, so that they will in no way interfere with the vision of motorists or with neighboring residents. Only white illumination shall be used, and no flashing (on-and-off) sign, nor any sign simulating movement, shall be permitted, except signs indicating time and/or temperature or similar signs erected for the convenience of the public. No fluorescent paint or other preparation can be used for high reflection.

(8) The provisions of this section do not apply to signs on the inside of buildings, nor to small signs on outdoor merchandise display racks, cases and vending devices.

(9) One (1) sign advertising real estate, not to exceed thirty-two (32) square feet in area, may be erected only on the property to be sold or rented. One (1) additional sign may be erected on the same property for each street on which the lot abuts. These signs shall be removed immediately following the sale or rental of the property. One (1) construction sign, not exceeding thirty-two (32) square feet may be erected on each construction project. This sign shall not be erected until construction has actually begun and shall be removed as soon as the building is substantially complete.

(10) Additional temporary signs may be permitted as regulated by Section 35.1-26(d).

(i) Parking requirements. In the central business district, the minimum off-street parking requirements shall not apply because of the impracticability of providing such parking on the basis of individual uses in highly congested areas. However, developers of new buildings will be strongly encouraged to provide parking up to the minimum requirements.

4. That Sec. 35.1-38.1. Riverfront business district (B-6) of the Code of the City of Lynchburg be, and the same is hereby, amended and reenacted as follows:

Sec. 35.1-38.1. Riverfront business district (B-6).

(a) Intent. This district is to provide for a wide range of residential, commercial, and other sales and service operations, serving the entire metropolitan area. This district is specifically designed to encourage quality development of the waterfront, to preserve its design and historic resources, and to develop the area's full potential for varied uses. Development is intended to provide appropriate reuse of existing structures, to encourage more feasible commercial and mixed commercial/residential uses, to promote safe and convenient pedestrian circulation and access to the river, and to assure beneficial visual relationships within the district and from principal view points.

(b) Access. In order to assure public access to the James River for recreational purposes and to protect the aesthetic qualities of the riverfront, retention of all existing public right-of-ways is encouraged. For new development between Jefferson Street and the James River, public access is encouraged across the subject property and through any new structure proposed to be built between the terminus of an existing public right-of-way and the James River. This access toward the James River shall be provided with a minimum width of ten (10) feet at intervals of approximately three hundred and fifty (350) feet along the riverfront.

(c) Design review. In order to retain the architectural integrity of the riverfront/downtown area, the area included in the boundaries of the B-6 district shall be designated as a historic district advisory area. Such designation requires that any exterior alterations within the area, including demolitions, new construction, and exterior alterations to existing structures, shall be subject to review by the design review board for conformity with the commercial historic district design guidelines: downtown Lynchburg. The review shall be conducted as a public meeting with the opportunity for public comment including written notice to property owners within two hundred (200) feet of the subject property. While the recommendations resulting from the design review stipulated by this section are offered only in an advisory capacity, developers are encouraged to comply with such recommendations.

The cost of such public meeting shall include a fee for notification by ~~certified first class~~ mail to all required recipients at the standard ~~postal rate of two dollars (\$2.00)~~ as determined by the United States Postal Service

for each written notice, to be paid by the petitioner. The city planner or his designee shall make written affidavit that the required notifications have been mailed and shall file such affidavit with the papers of the case.

(d) Prohibited uses. Within the business B-6 district, as indicated on the official zoning map, no lot, building or structure shall be used and no building shall be erected which is intended or designed to be used in whole or in part for any industrial or manufacturing purpose, unless it fits the definition regarding the repair or assembly of goods as specified in section 35.1-38.1(g)(7), of this district. No operations shall be carried on which create conditions of noise, odor, particulate or light detrimental to health, safety or the general welfare of the community.

(e) Uses permitted by right. The following uses shall be permitted by right in the riverfront business district under the regulations of section 35.1-14, site plan review, of the zoning ordinance:

(1) Any use hereinbefore permitted by right in R-1, R-2, R-3, R-4 and R-5 districts and business B-1, B-2, B-3, B-4, and B-5 districts, except the following:

a. Generally, any use which requires outside storage shall be prohibited, unless otherwise stated.

b. The following types of use, which are considered to be too intensive:

Armories

Automobile and truck rental with outside storage

Automobile or truck painting and body repair shops

Automobile or truck repair shop

Automobile, truck and trailer sales with outside sales and storage permitted

Billboards

Bottling plants

Building material sales (with outside storage)

Carpentry shops (with outside storage)

Contractors' establishments (with outside storage)

Dairies, pasteurizing plants, or ice cream manufacture (with outside storage)

Drive-in theaters

Exterminators (with outside storage)

Greenhouses (commercial)

Ice manufacture (commercial)

Kennels (outside commercial) for dogs and other pets

Monument and gravestone sales

Motor freight stations

Printing plants (see job printing, which is allowed by right)

Sales lots for construction and farm equipment and similar machinery

Storage yards, including sand yards, gravel yards, coal yards, railroad yards, automobile wrecking yards, junkyards or the storage of combustibles prohibited by the fire code

Tires, rebuilding and retreading establishments

Transient trailer parks

Travel trailer sales and rentals

Trucking terminals

Window blinds, shades and awnings (manufacture)

(2) Boat sales, service, and rentals

(3) Exhibitions and festivals not to exceed fifteen (15) days duration, by special permit subject to approval by the city manager or his designated official. (See temporary amusement parks, carnivals, circuses, fairs, and the like, which are allowed by conditional use permit)

(4) Livery stables (excluding outside storage)

- (5) Storage warehouses and wholesalers (with no outside storage)
- (6) Water based transportation and recreation facilities
- (7) Wholesale and produce markets (with no outside storage)
- (8) Other uses determined by city council to be of similar character to and compatible with the above uses
- (f) Permitted accessory uses. Uses, except signs, permitted as accessories to principal uses in the B-3 district shall be permitted as accessories in the B-6 district.
- (g) Uses permitted by conditional use permit. The following uses shall be permitted in the riverfront business district (B-6) under the regulations of Section 35.1-15 and Article X of the zoning ordinance:
 - (1) Arenas, auditoriums, or stadiums, exceeding a maximum capacity of one thousand (1,000) persons
 - (2) Automobile or truck service stations
 - (3) Automobile or truck washing facilities
 - (4) Cluster commercial development districts
 - (5) Moving and storage establishments
 - (6) Radio towers and transmitting stations
 - (7) Repair, assembly, or processing of goods, such as that which may be found in an I-1 or I-2 district (except for sawmills or planing mills), provided that no conditions are created in which smoke, fumes, noise, odor, light, or dust becomes detrimental to the health, safety, or general welfare of the community and that there is no outside storage
 - (8) Schools and colleges of all types exceeding a maximum on site enrollment of one hundred (100) students
 - (9) Sign shops, small
 - (10) Temporary amusement parks, carnivals, circuses, fairs, and the like (See exhibitions and festivals, which are allowed by right.)
- (h) Standards for B-6, riverfront business district. The following dimensional standards shall apply within business districts:

(1) General standards.B-6

Minimum average lot area per establishment

(square feet)None required

Minimum lot depth (feet)0

Minimum front yard (feet)0

Minimum rear yard (feet)0

Minimum side yard (feet)*0

(2) *Yards. None required, except that any side yard abutting a residential district shall be a minimum of twice the width required in that district. Such a side yard shall be screened in accordance with section 35.1-23 of the zoning ordinance.

(3) Height regulations. None required.

(4) Area regulations. None required.

(i) Signs. It is recommended that signs in the riverfront business district conform to the commercial historic districts design guidelines: downtown Lynchburg as adopted by city council September 15, 1986 and readopted on December 10, 1991. Exterior signs pertaining only to uses conducted on the premises will be permitted, subject to the following conditions:

(1) Free standing ground signs, roof signs, large projecting signs, internally illuminated plastic signs, overly bright signs, moving signs or signs simulating movement, and flashing illuminated signs are not allowed.

(2) The provisions of this section do not apply to signs on the inside of buildings.

(3) Wall signs shall face only upon a principal street or an abutting parking lot, or where located on a corner lot, may face upon a side street. The aggregate face area of all signs on any one (1) wall of a building shall be limited to one (1) square foot of sign per linear foot of the building and the total area of the sign shall not exceed twenty-five (25) square feet. Letters and symbols shall be limited to a maximum height of twelve (12) inches. These regulations do not apply to the restoration of existing historically significant wall signs.

(4) No sign shall project more than four (4) feet beyond the face of a building, nor shall any sign project above the parapet wall of a building.

(5) When any sign is lighted, the illumination must be indirect and should have the light source concealed. Only illumination shall be used and must be directed to prevent interference with the vision of motorists or adjacent occupants. No fluorescent paint or other preparation can be used for high reflection.

(6) One (1) sign advertising real estate, not to exceed sixteen (16) square feet in area, may be erected only on the property to be sold or rented. One (1) additional sign may be erected on the same property for each street on which the lot abuts. These signs shall be removed immediately following the sale or rental of the property. One (1) construction sign, not exceeding sixteen (16) square feet may be erected on each construction project. This sign shall not be erected until construction has actually begun and shall be removed as soon as the building is substantially complete.

(7) Additional temporary signs may be permitted as regulated by section 35.1-26(d).

(j) Parking requirements. In the riverfront business district, the minimum off-street parking requirements shall not apply because of the impracticability of providing such parking on the basis of individual uses in highly congested areas. However, developers will be strongly encouraged to provide parking up to the minimum requirements.

5. That this ordinance shall become effective upon its adoption.

Adopted:

Certified:

Clerk of Council

THE DEPARTMENT of COMMUNITY PLANNING & DEVELOPMENT

City Hall, Lynchburg, VA 24504

434-847-1508

To: Planning Commission
From: Planning Division
Date: November 13, 2002
RE: **ZONING ORDINANCE AMENDMENTS – SECTION 35.1-17, SECTION 35.1-19, SECTION 35.1-37, SECTION 35.1-38.1 OF THE ZONING ORDINANCE DEALING WITH REGULATIONS RELATED TO PROPERTY OWNER NOTIFICATIONS REQUIREMENTS AND ADMINISTRATIVE CORRECTIONS**

SUMMARY

- ✍ Section 15.2-2204 of the Virginia State Code allows property owner notifications to be sent by first class mail, if the notifications are sent by the governing body provided that a representative of the governing body makes affidavit that the notifications have been made and files the affidavit with the papers of the case.
- ✍ Sending property owner notifications by first class mail will reduce the amount of staff time required to prepare notifications and reduce costs associated with the mailings.
- ✍ Administrative clarifications to the Zoning Ordinance changing the “Board of Historic & Architectural Review” to “Historic Preservation Commission” and changing the contact information on Board of Zoning Appeals notification signs from the “Inspections Division” to the “Neighborhood Services Division”.

The Planning Division recommends approval of the Zoning Ordinance amendments.

BACKGROUND

City Council periodically adopts amendments to update or clarify various aspects of the Zoning Ordinance. Property owner notifications required by the Zoning Ordinance are currently being sent by “certified” mail. The City’s fee schedule allows for the applicant to be taxed at \$2.00 per letter while the actual cost to the City is \$2.67 per letter. “Certified Mail Receipts” must be hand written by City personnel resulting in an inefficient use of staff time. The number of notifications varies depending on the location and parcel size of the petition.

Section 15.2-2204 of the Virginia State Code allows property owner notifications to be sent by “first class” mail if the governing body sends the notifications. A representative of the government is required to make affidavit that the notifications have been made, and the affidavit must be filed with the papers of the case. The Zoning Ordinance Amendment proposes to tax the petitioner at the “current United States Postal Service” rate which would eliminate the need for future fee schedule changes relating to postage. Sending property owner notifications by first class mail would also improve the efficiency of the notification process while still compiling with the State Code.

Other administrative changes to the Zoning Ordinance are also required. The name of the “Board of Historic & Architectural Review” has been changed to the “Historic Preservation Commission”. The notifications signs required for Board of Zoning Appeals (BZA) list the Inspections Division as the point of contact, while these duties have been moved to the Neighborhood Services Division.

PLANNING DIVISION RECOMMENDATION

Based on the preceding information and analysis, the Planning Division recommends the following:

That the Planning Commission recommends to City Council approval of the proposed amendments to Sections 35.1-17, 35.1-19, 35.1-37 and 35.1-38.1 of the City Code relating to property owner notification requirements and administrative changes.

This matter is hereby offered for your consideration.

William T. Martin
City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Ms. Rachel O. Flynn, Director of Community Planning & Development
Mr. Bruce A. McNabb, Director of Public Works
Mr. Robert D. DeJarnette, Fire Marshal
Mr. J. Lee Newland, City Engineer
Mr. Gerry L. Harter, Traffic Engineer
Mr. Karl Cooler, Building Official
Mr. Arthur L. Tolley, Zoning Official
Mr. Robert S. Fowler, Zoning Official

APPENDIX

Proposed amended Zoning Ordinance text

THESE MINUTES HAVE NOT BEEN REVIEWED OR APPROVED BY THE PLANNING COMMISSION

Consideration of amending the provisions of the Zoning Ordinance (Section 35.1-17, Amendments, Section 35.1-19, Public Hearings, Section 35.1-37, Central Business District, and Section 35.1-38.1, Riverfront Business District) to require property owner notifications be mailed by first class mail instead of the current requirement of certified mail, with cost of first class mailing to be billed to the petitioner at the current postal rate.

Mr. Martin said this change would amend the way the City notified adjacent property owners for proposed Conditional Use Permits, Rezoning, Board of Zoning Appeals, and Design Review Board. He said Section 15.2-2204 of the Virginia State Code allowed for property owner notifications to be sent by first class mail if a representative of the governing body signed an affidavit that the letters had, in fact, been sent. He said the Certified mail slips that were currently being used took a great amount of staff time and cost the City \$2.67 per letter to send. He added that the City fee schedule approved by City Council only allowed the department to charge the petitioner \$2.00 per letter, so the City was losing .67cents per mailing. Mr. Martin continued by saying that the Certified mail slip only proved that the letter was mailed, not that the property owner had received the letter. He said the charge back to the petitioner would be the current postal rate. He added that this change would also eliminate the need to appeal to Council to change the fee schedule every time the postage rate went up.

Mr. Martin explained that other administrative clarifications needing to be changed was the name of the "Board of Historic & Architectural Review" to "Historic Preservation Commission" and that the "Inspections Division" no longer handled the Board of Zoning Appeals, but was handled through the "Neighborhood Services Division".

After further discussion, Commissioner Wilkins made the following motion, which was seconded by Commissioner Echols and passed by the following vote:

"That the Planning Commission recommends to City Council approval of the proposed amendments to Sections 35.1-17, 35.1-19, 35.1-37 and 35.1-38.1 of the City Code relating to property owner notification requirements and administrative changes."

AYES:	Dahlgren, Echols Flint, Moore, Pulliam Wilkins, Worthington	7
NOES:		0
ABSTENTIONS:		0